Appl. No. 10/611,616
Response Dated December 10, 2007
Reply to Office Action of September 10, 2007

Docket No.: 1020.P16534
Examiner: Nhuyen, Tanh Q.
TC/A.U. 2182

REMARKS

Summary

Claims 1-18 and 20-23 stand in this application. Claim 19 was previously canceled without prejudice. Claims 1, 5, 6, 11-13, 17, 18, 22 and 23 have been amended. No new matter has been added. Favorable reconsideration and allowance of the standing claims are respectfully requested.

Although Applicant disagrees with the broad grounds of rejection set forth in the Office Action, Applicant has amended claims 1, 5, 6, 11-13, 17, 18, 22 and 23 in order to facilitate prosecution on the merits.

Claim Objections

Claims 5, 6, 11, 12, 17, 22 and 23 stand objected to based on claim informalities. Applicant respectfully submits that these claims have been amended in accordance with the instructions in the Office Action and withdraw of the claim objections is respectfully requested.

35 U.S.C. § 112

Claims 1-18 and 20-23 have been rejected under 35 U.S.C. § 112 for allegedly "failing to provide enablement for 'determining a frame boundary for said audio information'…and for 'wherein the determined boundary is of at least one of the components.'" Applicant respectfully traverses the rejection based on the above amendments. While applicant disagrees with the enablement rejection, Applicant respectfully submits that independent claims 1, 6, 13 and 18 have been amended to recite

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"the determined frame boundary corresponding to a frame boundary of at least one of the components" to facilitate prosecution on the merits. Applicant respectfully submits that the Office Action states at least on page 4 that this language is supported by the specification. Consequently, Applicant respectfully requests removal of the enablement rejection. Applicant further submits that the above amendments are made to overcome a § 112 rejection and are not made to overcome the cited reference. Accordingly, these amendments should not be construed in a limiting manner.

Claims 14-17 have been rejected under 35 U.S.C. § 112 for not particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention. Applicant respectfully traverses the rejection and requests reconsideration and withdraw of the § 112 rejection. Applicant respectfully submits that claims 14-17 are in proper form and are not ambiguous. Furthermore, Applicant respectfully submits that language proposed in the Office Action would result in improper grammar. Consequently, Applicant respectfully requests removal of this rejection.

35 U.S.C. § 102

At page 5, paragraph 9 of the Office Action claims 1-2, 6-9 and 13-14 stand rejected under 35 U.S.C. § 102 as being anticipated by United States Patent Number (USPN) 6,463,486 to Parry et al. ("Parry"). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the anticipation rejection.

Applicant respectfully submits that to anticipate a claim under 35 U.S.C. § 102, the cited reference must teach every element of the claim. *See* MPEP § 2131, for example. Applicant submits that Parry fails to teach each and every element recited in

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claims 1-2, 6-9 and 13-14 and thus they define over Parry. For example, with respect to

claim 1, Parry fails to teach, among other things, the following language:

> determining a frame boundary for said audio information…
> the determined frame boundary corresponding to a frame
> boundary of at least one of the components.

According to the Office Action, this language is disclosed by Parry at column 11, lines

59-64, and at column 12, lines 20-24. Applicant respectfully disagrees.

Applicant respectfully submits that claim 1 defines over Parry. Parry at the given

cite, in relevant part, states:

> At step 353, algorithm 290 determines whether the amount
> of data to be read extends to a logical position in circular
> buffer 124 which is beyond the logical position of the
> "Head Pointer" such that a portion of the desired data is not
> yet valid. If not, algorithm 290 proceeds directly to step
> 360….
> At step 360, algorithm 350 determines whether the logical
> position corresponding to the beginning of the requested
> data is before the logical position of the "Tail Pointer"
> variable. If so, the requested data is invalid since it has
> already been overwritten by writer module 122.

Applicant respectfully submits that this is different than the above recited language of

claim 1.

Applicant respectfully submits that Parry, arguably, teaches positions within a

circular buffer, such as logical positions, as well as head and tail pointers that reference

beginning and end positions of the buffer. Applicant respectfully submits that this is

clearly different than the above recited language of claim 1. Applicant respectfully

submits that Parry fails to teach, disclose or suggest determining boundaries of stored

frames. Moreover, Applicant respectfully submits that even if Parry were to teach

boundaries of stored frames, which Applicant does not admit, Applicant respectfully

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submits that Parry fails to teach, suggest or disclose the determined frame boundary
corresponding to a frame boundary of at least one of the components as recited in
independent claim 1.

Applicant respectfully submits that the cited portions of Parry, arguably, merely
discuss positions within a circular buffer. Applicant respectfully submits that he has been
unable to locate any discussion in Parry directed to the above recited language of claim 1.
Applicant respectfully submits, therefore, that claim 1 defines over Parry for at least the
above stated reasons. Accordingly, Applicant respectfully requests removal of the
anticipation rejection with respect to claim 1. Furthermore, Applicant respectfully
requests withdrawal of the anticipation rejection with respect to claim 2, which depends
from claim 1 and, therefore, contains additional features that further distinguishes this
claim from Parry.

Claims 6 and 13 recite features similar to those recited in claim 1. Therefore,
Applicant respectfully submits that claims 6 and 13 are not anticipated and are patentable
over Parry for reasons analogous to those presented with respect to claim 1. Accordingly,
Applicant respectfully requests removal of the anticipation rejection with respect to
claims 6 and 13. Furthermore, Applicant respectfully requests withdrawal of the
anticipation rejection with respect to claims 7-9 and 14 that depend from claims 6 and 13
respectively, and therefore contain additional features that further distinguish these
claims from Parry.

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35 U.S.C. § 103

At page 8, paragraph 14 of the Office Action claims 18 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Parry. Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

Applicant respectfully submits that claim 18 recites features similar to those recited in claim 1. Therefore, Applicant respectfully submits that claim 18 is not obvious and is patentable over Parry for reasons analogous to those presented above with respect to claim 1. Accordingly, Applicant respectfully requests removal of the obviousness rejection with respect to claims 18. Furthermore, Applicant respectfully requests withdrawal of the obviousness rejection with respect to claim 20 that depends from claim 18, and therefore contains additional features that further distinguish this claim from Parry.

For at least the reasons given above, claims 18 and 20 are non-obvious and represent patentable subject matter in view of the cited references, whether taken alone or in combination. Accordingly, removal of the obviousness rejection with respect to claims 18 and 20 is respectfully requested. Further, Applicant submits that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicant submits that the claims are not anticipated nor rendered obvious in view of the cited references.

Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be

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necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

It is believed that claims 1-18 and 20-23 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

The Examiner is invited to contact the undersigned at 724-933-9338 to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to the credit card in the previously filed credit card authorization form.

Respectfully submitted,

KACVINSKY LLC

/John F. Kacvinsky/

John F. Kacvinsky, Reg. No. 40,040
Under 37 CFR 1.34(a)

Dated: December 10, 2007

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